

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

EDUARDO R. CANALES,	§	
TDCJ-CID NO. 1276027,	§	
	§	
v.	§	C.A. NO. C-06-266
	§	
NATHANIEL QUARTERMAN,	§	
DIRECTOR, TDCJ-CID.	§	

**MEMORANDUM AND RECOMMENDATION TO
DENY PETITIONER'S MOTION TO PROCEED
IN FORMA PAUPERIS AND FOR A WRIT OF CERTIORARI**

Petitioner is an inmate in the Texas Department of Criminal Justice, Criminal Institutions Division, and is currently incarcerated at the Ferguson Unit in Midway, Texas. Proceeding pro se, petitioner filed this habeas corpus petition pursuant to 28 U.S.C. § 2254 on June 27, 2006. (D.E. 1).

On December 12, 2006, respondent filed a motion for summary judgment. (D.E. 25). On February 20, 2007, this Court granted respondent's motion for summary judgment and denied a certificate of appealability before entering final judgment. (D.E. 30, 31). On February 19, 2008, the Fifth Circuit also declined to grant a certificate of appealability. (D.E. 47). Pending is petitioner's motion to proceed in forma pauperis before the Supreme Court of the United States, and for a writ of certiorari by that Court. (D.E. 48).

This Court cannot grant certiorari, or leave to proceed in forma pauperis, on

behalf of the Supreme Court. Petitioner must file his petition according to the procedures outlined in the Supreme Court Rules. See Sup. Ct. R. 29 (all documents presented to the Court shall be filed with the Clerk of the Supreme Court); Sup. Ct. R. 39, ¶ 2 (procedures for requesting leave to proceed in forma pauperis); see also Sup. Ct. R. 12-14 (addressing how and when to file a petition for writ of certiorari). Documents to be filed in the Supreme Court should be addressed to: Clerk, Supreme Court of the United States, Washington, D.C. 20543.

Accordingly, it is respectfully recommended that petitioner's motion to proceed in forma pauperis, and for a writ of certiorari, (D.E. 48), be DENIED without prejudice.

Respectfully submitted this 2nd day of April 2008.



BRIAN L. OWSLEY
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

The Clerk will file this Memorandum and Recommendation and transmit a copy to each party or counsel. Within **TEN (10) DAYS** after being served with a copy of the Memorandum and Recommendation, a party may file with the Clerk and serve on the United States Magistrate Judge and all parties, written objections, pursuant to Rule 72(b) of the Federal Rules of Civil Procedure; Rule 8(b) of the Rules Governing § 2254 Cases; 28 U.S.C. § 636(b)(1)(C); and Article IV, General Order No. 2002-13; United States District Court for the Southern District of Texas.

A party's failure to file written objections to the proposed findings, conclusions, and recommendation in a magistrate judge's report and recommendation within **TEN (10) DAYS** after being served with a copy shall bar that party, except on grounds of *plain error*, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc).